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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 003585

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SUBJECT: A NEW DIRECTION IN THE CAPRILES TRIAL?

REF: CARACAS 3493 AND PREVIOUS

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Classified By: Robert Downes, Political Counselor,
for Reason 1.4(b).

11. (C) SUMMARY The trial of outspoken opposition mayor of Baruta (a Caracas municipality) Henrique Capriles Radonski resumed on December 6. Capriles is accused of unlawful entry and violation of international principles for his role in the events of April 12, 2002, at the Cuban Embassy. Poloff was present for the lengthy proceedings and did not see any other diplomatic missions represented. A new judge and a new prosecutor may signal a new direction for this trial. If the judge does not make a ruling prior to an extended Christmas recess, the trial faces the prospect of returning once again to square one. END SUMMARY

A NEW JUDGE

12. (C) The trial of Baruta Mayor Henrique Capriles Radonski resumed in Caracas on December 6 and again on December 8. The trial reconvened on November 27 (reftel), following months of inaction, under new judge Auristela Salazar Maldonado, the 30th judge to preside over this case. A Capriles family member told Poloff on December 6 that Salazar is nearing retirement, with over thirty years as a judge. He also said that Salazar is a former member of the Christian Democrats Party (COPEI) and this case could prove her last. Completely opposite from the previous judge to preside over this case, Salazar brings experience and a no-nonsense presence to the trial. Her body language was very strongly against the prosecution. She glared at the prosecutors on several occasions, particularly when they rose to cross-examine witnesses before she asked them if they had any questions. She never shot a cross glance towards the defense.

13. (C) Poloff was present during the proceedings on December 6 and 8, and did not see representation from any other diplomatic missions. Indeed, one of Capriles's lawyers told Poloff December 6 that such participation would be welcome and key. On December 8, Capriles told Poloff that he had sent personal notes to many European Union embassies inviting them to attend a session of his trial. The trial is set to resume on December 13, and will include the written record of an interview the then-Norwegian Ambassador to Venezuela gave to major daily El Universal in 2004 - material

that will purportedly help Capriles's case. Capriles told Poloff December 8 that he expects the trial to wrap up after two more sessions. If the judge does not rule on the case prior to a lengthy Christmas recess, the trial faces the prospect of returning to square one.

A NEW PROSECUTOR

14. (C) The prosecution has replaced one of its two prosecutors with a young woman who appeared overwhelmed and was noticeably underprepared. The prosecution did not mount much of a case. They presented one witness, a video expert, who was promptly discredited on cross examination. The defense, on the other hand, has over 50 witnesses at the ready. The thrust of the testimony heard thus far, which has included several Baruta police officers and journalists present at the scene, has been that Capriles ordered his police forces to protect "at all costs" the Cuban mission and that his entry into the embassy compound was facilitated by Embassy staff.

A NEW PJ FLAG BEARER?

15. (C) Former Primero Justicia presidential candidate and major opposition figure Julio Borges made a late appearance at the trial on December 6. Borges appeared little interested in the goings-on of the trial, but rather in appearing on TV with Capriles at the end of the show. Probably suspecting the trial would adjourn for the day shortly after his arrival, Borges arrived at 4:20pm. Instead, the trial lasted until nearly 7:00pm, during which time Borges was noticeably fidgety, walking in and out of the courtroom. Borges, who is actively working to maintain and

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expand his leadership position in Primero Justicia and nationally among the opposition, was front and center with Capriles at the post-game press conference.

COMMENT

16. (C) The new judge may be a positive development for Capriles. At the end of her career, Salazar appears at this point less likely to succumb to government pressure to steer the case in a certain direction. The BRV's removal of an experienced prosecutor and replacement with a young, green lawyer indicates the government may be starting to realize its case is weak - or maybe that the BRV is looking to let the case come to conclusion. Julio Borges's presence at the trial was self-serving.

WHITAKER